

**FILED**UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

AO 91 (Rev. 08/09) Criminal Complaint

## UNITED STATES DISTRICT COURT

JUL 29 2016

for the

District of New Mexico

MATTHEW J. DYKMAN  
CLERK

United States of America )

v. )

Timothy J MARTIN  
Year of Birth: 1984  
SSN: xxx-xx-7241 )

Case No. 16mj 3037

Defendant(s)

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of July 28, 2016 in the county of Taos in the  
Judicial District of New Mexico, the defendant(s) violated:

## Code Section

## Offense Description


Title 18, United States Code,  
Section 2252(a)(5)(B);Possession of Visual Depictions of Minors Engaged in Sexually Explicit  
ConductTitle 18, United States Code,  
Section 2252(a)(2)(A)Distribution and/or Receipt of a Visual Depiction of a Minor Engaged in  
Sexually Explicit Conduct.

This criminal complaint is based on these facts:

During a period ranging from approximately January of 2016 and July 28, 2016 Timothy MARTIN possessed visual depictions of minors engaged in sexually explicit conduct in violation of Title 18, United States Code, Sections 2252(a)(4)(B), and Distributed and/or Recieved visual depictions of minors engaged in sexually explicit conduct in violation of Title 18, United States Code, Section 2252(a)(2)(A)

☒ Continued on the attached sheet.  
Complainant's signatureAlfred J. Allen, Special Agent  
Printed name and title

Sworn to before me and signed in my presence.

Date: 7/29/16  
Judge's signatureCity and state: Albuquerque, New Mexico

Printed name and title

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

United States of America

v.

Timothy X. MARTIN

Defendant.

**AFFIDAVIT**

I, Alfred J. Allen, being duly sworn, hereby depose and state the following:

**INTRODUCTION AND AGENT BACKGROUND**

1. Your Affiant is a Special Agent (SA) with the Department of Homeland Security, U.S. Immigration & Customs Enforcement (ICE), Homeland Security Investigations (HSI), and has been employed by HSI as such since March 2010. Prior to that your affiant was a Probation and Parole Officer in Louisiana for approximately 8 years. Your Affiant successfully completed the Criminal Investigator Training Program at the Federal Law Enforcement Training Center. Your Affiant is currently assigned to HSI Albuquerque to investigate violations of Immigration and Customs laws, which includes but is not limited to financial crimes, illegal narcotics investigations, fraud and other Federal crimes.
2. The contents of this affidavit are based on information received from the New Mexico State Police and other HSI Special Agents during the course of the investigation and does not contain every detail of the events. Rather, it contains only the facts that your affiant believes are necessary to establish probable cause in support of a criminal complaint against Timothy Martin for violation of Title 18, United States Code, Section 2252; Possession of a Matter Depicting Minors Engaged in Sexually Explicit Conduct.

**RELEVANT STATUTES**

3. This investigation concerns alleged violations of 18 U.S.C. §§ 2252A(a)(2)(A) and (b)(1) (distribution and/or receipt of a visual depiction of a minor engaged in sexually explicit conduct) and 18 U.S.C. §§ 2252A(a)(5)(B) and (b)(2) (possession of and access with intent to view a visual depiction of a minor engaged in sexually explicit conduct).

## **DETAILS OF INVESTIGATION**

In September of 2015, HSI agents at the Cyber Crimes Center, Child Exploitation Investigations Unit (C3/CEIU), became involved in an ongoing child pornography investigation. At the present time, this investigation involves multiple individuals believed to be residing in the United States and abroad, who are members of an Internet-based bulletin board that operates on an anonymous online network. The bulletin board is described below and referred to herein as "Bulletin Board A". The true name and Internet address of Bulletin Board A is known to your affiant, but is being referred to by pseudonym in order to protect other law enforcement investigations

### **The Network**

Bulletin Board A operates on a network ("the Network") available to Internet users who are aware of its existence. The Network is designed specifically to facilitate anonymous communication over the Internet. In order to access the Network, a user must install computer software that is publicly available, either by downloading software to the user's existing web browser, downloading free software available from the Network's administrators, or downloading a publicly-available third-party application. Using the Network prevents someone attempting to monitor an Internet connection from learning what sites a user visits and prevents the sites the user visits from learning the user's physical location. Because the Network routes communication through other computers, traditional IP identification techniques are not viable.

Websites that are accessible only to users within the Network can be set up within the Network and "Bulletin Board A" is one such website. Accordingly, "Bulletin Board A" cannot generally be accessed through the traditional Internet. Only a user who had installed the appropriate software on his/her computer could access "Bulletin Board A." Even after connecting to the Network, however, a user has to know the exact web address of "Bulletin Board A" in order to access it. Websites on the Network are not indexed in the same way as websites on the traditional Internet. Accordingly, unlike on the traditional Internet, a user could not simply perform a Google search for the name of "Bulletin Board A," obtain the web address for "Bulletin Board A," and click on a link to navigate to "Bulletin Board A." Accessing "Bulletin Board A" therefore requires numerous affirmative steps by the user, making it extremely unlikely that any user could have simply stumbled upon "Bulletin Board A" without first understanding its content and knowing that its primary purpose was to advertise and distribute child pornography.

The Network's software protects users' privacy online by bouncing their communications around a distributed network of relay computers run by volunteers all around the world, thereby masking the user's actual IP address which could otherwise be used to identify a user.

The Network also makes it possible for users to hide their locations while offering various kinds of services, such as web publishing, forum/website hosting, or an instant messaging server. Within the Network itself, entire websites can be set up which operate the same as regular public websites with one critical exception - the IP address for the web server is hidden and instead is replaced with a Network-based web address. A user can only reach such sites if the user is utilizing the Network client and operating in the Network. Because neither a user nor law enforcement can identify the actual IP address of the web server, it is not possible to determine through public lookups where the computer that hosts the website is located. Accordingly, it is not possible to obtain data detailing the activities of the users from the website server through public lookups.

### **Description of "Bulletin Board A" and its Content**

Bulletin Board A is dedicated to the advertisement, distribution and production of child pornography. It has over 1500 users who actively post new content and who engage in online discussions involving the sexual exploitation of minors. Bulletin Board A has various sections containing forums and sub forums in which members post messages and/or images for other members to view. For example, there is a section labeled "Girls," and within this section there are several forums, including: "Model/Producer section," "Babies and toddlers," "Pre-teen Softcore/Non-nude," "Pre-teen Hardcore," "Pre-teen Softcore/Non-nude;" and "Requests."

In October of 2015 C3/CEIU began working with the Department of Justice, Child Exploitation and Obscenity Section (CEOS), High Technology Investigative Unit (HTIU). Since that time, HTIU has captured content contained on Bulletin Board A. C3/CEIU personnel have reviewed this content and observed various postings by board members. One such post was titled "Malaysian Boy" and found within the section titled "Boys," "Pre-teen Hardcore", "Videos." This post was made to the board by a member (hereafter referred to as BOARD MEMBER A) on January 03, 2016 and it consisted of a video file, which is 03:50 minutes in length. The video depicts a young, minor male who appears to be between the ages of 4 and 6 years old. The child is lying on his back on a bed with a blue bed spread, nude from the waist down. Portions of this video depict what appears to be an adult male's penis anally penetrating the minor boy. Based upon the minor's facial expressions, he appears to be in pain. The URL for this post is as follows: [http://\[FSS\].com/xxxxxxxxxxxxx/Negaraku.rar.html](http://[FSS].com/xxxxxxxxxxxxx/Negaraku.rar.html). This post also contained a password, which users could input to access and open the content of the file associated with that unique URL.

The HTIU downloaded the file titled "Malaysian Boy" from the above listed URL. This file was encrypted, but by using the password provided in the post detailed above, the file could be opened and viewed. C3/CEIU personnel provided this file to me, and I have reviewed its contents. The file consists of a video file, which is 03:50 minutes in length. As stated above, the video file depicts young, minor male who appears to be between the ages of 4 and 6 years old. The child is lying on his back on a bed with a blue bed spread,

nude from the waist down. Portions of this video depict what appears to be an adult male's penis anally penetrating the minor boy.

#### **BULLETIN BOARD A's MEMBERS' USE OF FILE SHARING SERVICES**

Law enforcement has determined that these unique URLs, like the one mentioned above, which are posted by members of Bulletin Board A and which provide board members access to files depicting minors engaging in sexually explicit conduct, are hosted by several different cloud-based storage services. One of the storage services used by Bulletin Board A's members, hereafter referred to as FSS (File Sharing Site), offers users free cloud storage for their data, documents, images and music. According to its publically available website, FSS allows users to have unlimited storage space, with no restrictions for downloading files uploaded and allowed by others. Furthermore, FSS informs users that their data is safe and secure, by allowing individuals to create passwords to protect their files from "unauthorized downloads".

Based upon the information detailed above, law enforcement had reason to believe that FSS's service was used by members to store files containing child pornography and to make them accessible to other members. FSS provided this service using computer servers owned, maintained, controlled or operated by a provider whose name is known to Law Enforcement. The investigation has revealed that this provider has headquarters located in the United States.

On March 24, 2016, the United States District Court of the District of Columbia issued an Order pursuant to Title 18 United States Code §2703(d) directing FSS to disclose certain records relating to a list of unique URLs, including the one specifically mentioned above, that contained files that had been viewed by law enforcement and that each depicted minors engaging in sexually explicit conduct. This Order was sent to FSS and, in response to that Order, FSS produced business records that included the dates, times and IP addresses connected to the access and download and/or attempted download, of the files associated with each of the URLs specified in the application for the Order.

#### **Identification of the SUBJECT PREMISES**

The following records were provided by FSS and were associated with the access, download and/or attempted download of file content associated with the following unique URL: [http://\[FSS\].com/xxxxxxxxxxxxx/Negaraku.rar.html](http://[FSS].com/xxxxxxxxxxxxx/Negaraku.rar.html). On January 03, 2016 at 13:09 hours, IP address 50.130.190.226 was used to access, download and/or attempt to download, file content associated with that unique URL. As detailed above, the file depicted a video file, which is 03:50 minutes in length. This video depicts a young boy being anally penetrated by what appears to be an adult male.

Using publically available search tools, law enforcement determined that the IP address 50.130.190.226 was controlled by Internet Service Provider ("ISP") Comcast Cable Communications.

On or about April 13, 2016, a Department of Justice subpoena was served on Comcast Cable Communications for subscriber information relating to the use of IP address 50.130.190.226 on January 03, 2016 at 13:09 hours. A review of the records obtained revealed the following account holder and address: Timothy MARTIN, 106 Sarson Court in Taos, New Mexico 87571, which is the address of the SUBJECT PREMISES.

A check of publicly available databases also revealed that Timothy MARTIN is listed as residing at the SUBJECT PREMISES.

A check with the Division of Motor Vehicles on or about April 27, 2016 revealed that an individual named Timothy MARTIN with a year of birth of 1984 resides at 106 Sarson Court in Taos, New Mexico 87571, the SUBJECT PREMISES.

On May 17, 2016, a Department of Homeland Security summons was issued to Kit Carson Energy, electricity provider to the Taos, NM area, for account information for 106 Sarson Court in Taos, NM. On May 27, 2016, Kit Carson Energy responded with the requested information. The electricity account is held in the name Timothy MARTIN.

On May 6, 2016, a Department of Homeland Security summons was issued to New Mexico Gas Company, gas provider to the Taos, NM area, for account information for 106 Sarson Court in Taos, NM. On May 26, 2016, New Mexico Gas Company responded with the requested information stating the account holder for service at 106 Sarson Court in Taos, New Mexico is Timothy MARTIN.

#### **Execution of Search Warrant and Interview of Subject**

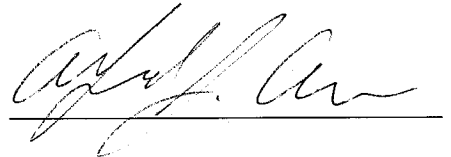
On July 28, 2016, a Federal Search Warrant was executed at the residence located at 106 Sarson Court in Taos, New Mexico. Timothy MARTIN was encountered at the residence and consented to a non-custodial interview and stated the following:

MARTIN stated that he had lived at the residence located at 106 Sarson Court in Taos, NM for approximately the past three years. He stated that the internet service provider at his residence was Comcast and that he had requested the installation of that service himself. MARTIN advised that he owned an ASUS laptop that was located at the residence. He stated that he had used the laptop at his residence to access images of minors engaged in sexually explicit conduct on numerous occasions. MARTIN stated that he had downloaded and viewed images of Child Exploitation as recently as two months ago. He advised that on occasion he had used the software "Skype" to chat online with other Skype users and had shared downloaded images of Child Exploitation by sending them as attached images to Skype messages. MARTIN admitted that when he

viewed the downloaded images of Child Exploitation he obtained from the internet that he had derived sexual gratification from viewing the images and frequently masturbated to the images.

**CONCLUSION**

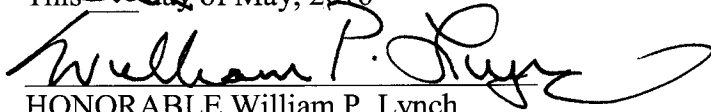
4. Based on the foregoing, your affiant believes that there is probable cause that on or about between January 1, 2016 and July 28, 2016, in the State and District of New Mexico, Timothy MARTIN, did violate 18 U.S.C. §§ 2252A(a)(2)(A) and (b)(1) (distribution and/or receipt of a visual depiction of a minor engaged in sexually explicit conduct) and 18 U.S.C. §§ 2252A(a)(5)(B) and (b)(2) (possession of and access with intent to view a visual depiction of a minor engaged in sexually explicit conduct)



Alfred Justin Allen, Special Agent  
Homeland Security Investigations

Subscribed and sworn to before me

This 24th day of May, 2016



HONORABLE William P. Lynch  
United States Magistrate Judge